

# **INSPECTION MANUAL**

**for the**

## **Lead Renovation, Repair and Painting Rule**



**U.S. Environmental Protection Agency  
Office of Enforcement and Compliance Assurance  
Office of Compliance  
1200 Pennsylvania Avenue, NW  
Washington DC 20460**

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## FOREWORD

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The purpose of this Manual is to assist inspectors who conduct inspections to monitor compliance with the EPA-credentialed Lead Renovation, Repair and Painting Rule (RRP Rule) promulgated under the Toxic Substances Control Act (TSCA) section 402(c) and the Pre-Renovation Education Rule under TSCA section 406(b) (RRP Inspections).

## DISCLAIMER

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This Inspection Manual is an inspection support tool provided by the U.S. Environmental Protection Agency (EPA), for use by EPA, states and tribes conducting RRP inspections. This Inspection Manual is not a regulation and, therefore, does not add, eliminate or change any existing regulatory requirements. The statements in this document are intended solely as guidance. This document is not intended, nor can it be relied on, to create any rights enforceable by any party in litigation with the United States. EPA, state and tribal officials may decide to follow the guidance provided in this document, or to act at variance with the guidance, based on analysis of specific-site circumstances. This guidance may be revised without public notice to reflect changes in EPA's policy.

## REVISION HISTORY

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## ACRONYMNS

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The Manual includes the following acronyms:

CDO	Case Development Officer
COF	child-occupied facility
CMS	Compliance Monitoring Strategy
DCO	Document Control Officer
HUD	U.S. Department of Housing and Urban Development
ICIS	Integrated Compliance Information System
LBP	Lead-based paint
NOI	Notice of Inspection
NPM	National Program Managers
OECA	Office of Enforcement and Compliance Assurance
OJT	On-job-training
OSHA	U.S. Occupational Safety and Health Administration
PRE Rule	Pre-renovation Education Rule
QAPP	Quality Assurance Project Plan
RRP Rule	Renovation, Repair and Painting Rule
SBREFA	Small Business Regulatory Enforcement Fairness Act
SEE	Senior Environmental Employee
SOP	Standard Operating Procedure
TSCA	Toxic Substance Control Act

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# Chapter One

## Introduction

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## PURPOSE AND APPLICABILITY

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The purpose of the Lead Renovation, Repair and Painting Rule (RRP) Inspection Manual is to establish uniform guidance on the conduct of compliance monitoring inspections by EPA-credentialed inspectors pursuant to the Renovation, Repair and Painting (RRP) Rule (40 CFR Part 745) under TSCA section 402(c) and the Pre-Renovation Education Rule under TSCA section 406(b).

Inspection activities conducted pursuant to this Manual should be consistent with the most recent versions of:

- The Compliance Monitoring Strategy (CMS) for TSCA
- The National Program Managers Guidance (NPM Guidance)
- The EPA Quality Assurance Field Activity Procedures (QAFAP)

Inspection activities conducted pursuant to this Manual should be consistent with the EPA QAFAP, which represent the minimum requirements for establishing a quality management system to support field activities for EPA. The QAFAP Guidelines cover personnel/training, document control, records management, evidence and sample management and handling, field documentation, field equipment, field inspections, reports, internal audits and corrective actions for all field activities.

## ROLE OF THE INSPECTOR

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An inspector has several roles. The main role of the RRP inspector is to gather information and document observations in support of statutory and regulatory compliance monitoring and enforcement efforts. If violations are suspected during an inspection, EPA may choose to initiate an enforcement action after the inspection is completed and documentation is reviewed by a case development officer. An enforcement proceeding typically rests on the observations, evidence and information gathering activities of the inspector. Therefore, in the event of an enforcement proceeding, an inspector may be needed to prepare for settlement negotiations, hearings, or to serve as a witness. Finally, since the inspector will come into contact with the regulated community as well as the public, he/she is an important EPA representative.

## STANDARDS OF PROFESSIONAL CONDUCT

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At all times, the inspector shall:

- Conduct investigations within the framework of the United States Constitution and with due consideration for individual rights, regardless of race, sex, creed or national origin.
- Uphold the Constitution, laws and regulations of the United States and all governments therein and never be a party to their evasion.

- Never use any information obtained confidentially in the performance of governmental duties as a means of making private profit.
- Never commit any act (or fail to act) in a manner that might be construed as being motivated by personal or private gain (conflict of interest).
- Never discriminate by dispensing special favors or privileges to anyone, whether for remuneration or not; and never accept favors or benefits under any circumstances.
- Develop and report facts of an inspection completely, objectively and accurately.
- Make no promises of any kind; government employees (inspectors) cannot bind government enforcement.
- Continually attempt to improve professional knowledge and technical skill in the field of conducting inspections.
- Comply with all applicable ethical requirements.

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## INSPECTOR REQUIREMENTS

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Federally credentialed inspectors who conduct RRP inspections must obtain federal inspection credentials issued by EPA. To obtain credentials the inspector is responsible for meeting knowledge requirements. Generally, the knowledge requirements for all inspectors include: (1) a basic curriculum designed for inspections in all media; (2) an occupational health and safety curriculum; and (3) a program specific curriculum. The requirements for obtaining RRP inspection credentials are set forth in EPA Order 3500.1. Specific occupational health and safety requirements are described in EPA Order 1440.

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## RELATIONSHIPS WITH THE PUBLIC AND THE REGULATED COMMUNITY

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The [Freedom of Information Act](#) (FOIA) governs the disclosure of information to the public. Federal inspectors should not release any notes, documents, reports, etc., obtained or prepared in connection with an RRP inspection until the Approval Authority or designee approves and signs the inspection report, and approves the release of the report and supporting documentation to the public. Until this process occurs, all documents are considered “enforcement confidential” and protectable under FOIA. The “enforcement confidential” designation extends to all inspection data and material including documents, samples, field notes, photographs and other documentation collected by the inspector. Procedures governing disclosure of information under FOIA are available at [40 CFR Part 2, Subpart A](#).

If an inspector is approached by a member of the public, including the media, during an inspection, the inspector should respectfully refer these inquiries to the appropriate EPA Press/Communications Office. The inspector must not divulge any information about the inspection. If the media representative is persistent, it may be necessary to stop the inspection temporarily to allow time to consult with the EPA Press/Communications Office.

EPA provides a variety of resources to help small businesses understand and comply with federal and state law, in part, due to the Small Business Regulatory Enforcement Fairness Act (SBREFA). These resources include a flyer, [EPA's Small Business Resources Information Sheet](#), which provides useful information on resources tailored for small business regarding environmental compliance issues. This flyer should be given out during every inspection.

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## COMPLIANCE ASSISTANCE

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During an inspection, the inspector may provide an EPA pre-approved compliance assistance packet containing information pertinent to the federal requirements. The inspector also may provide information regarding upcoming workshops or seminars on the RRP rule. If the inspector is unable to provide informational materials at the time of the inspection, it is appropriate to mail a compliance assistance package to the firm or individual. To avoid any confusion, the inspector should be clear that the informational mailing does not constitute EPA's inspection response.

During an inspection, an inspector may be asked to provide site specific advice that amounts to compliance assistance. See [The Role of the EPA Inspector in Providing Compliance Assistance During Inspection](#). An example of appropriate compliance assistance would be to provide links to the EPA lead website and copies of EPA published materials. An example of inappropriate compliance assistance would be to post signs and set up proper containment for the contractor in accordance with the RRP rule.

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## TSCA CONFIDENTIAL BUSINESS INFORMATION (CBI)

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All EPA inspectors conducting RRP inspections are expected to be TSCA CBI certified, which means that the Agency has approved the inspector to have access to TSCA CBI. An inspector who is a Senior Environmental Employee (SEE) cannot have access to TSCA CBI materials as a matter of law. Therefore, if any documents are claimed as TSCA CBI during an inspection conducted by a SEE, then the claimant must mail the documents to the TSCA Regional Document Control Officer (DCO) in accordance with the procedures set forth in the [TSCA CBI Manual](#).

All documents, data and other material claimed as TSCA CBI must be handled according to the [TSCA CBI Manual](#). Therefore, it is important that the inspector consult the [TSCA CBI Manual](#) to ensure that he/she follows the specific provisions therein (and in any EPA-approved TSCA CBI forms); and provides accurate information to the claimant, including any procedures for mailing TSCA CBI material to EPA.

During an RRP inspection, the inspector should have the following documents available to provide to the regulated entity:

- [TSCA/RRP Inspection Information Sheet on Confidential Business Information](#).

- EPA Form 7740-4 — TSCA Inspection Confidentiality Notice Form.
- EPA Form 7740-2 — Declaration of Confidential Business Information Form.

The inspector is to take the following steps:

- 1) Provide the [TSCA/RRP Inspection Information Sheet on CBI](#) to the representative of the regulated entity and answer questions.
- 2) Form 7740-4 — Regardless of whether or not the business claims CBI, have the representative of the regulated entity read the form and the inspector signs the form.
- 3) Form 7740-2 — If the regulated entity claims CBI, use this form to list all the documents or other material, or portions thereof documents that are included in the TSCA CBI claim.
  - a. If the CBI claimant refuses to sign the forms, then the inspector should note the denial on the form and describe efforts to secure a signature, then sign and date the form.
- 4) Protect the documents claimed to be TSCA CBI at all times. When not in a TSCA/CBI secure storage area, TSCA CBI must be kept under constant surveillance and personal control of a person authorized for CBI access as specified in the [TSCA CBI Manual](#), including while traveling. If the inspector is not able to meet these requirements, or if the inspector is not TSCA CBI certified, then the inspector should advise the claimant to follow the instructions for mailing TSCA CBI to the Regional TSCA DCO, as set forth in the [TSCA CBI Manual](#).

# Chapter Two

## Overview of the Regulations

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## INTRODUCTION

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The Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992) sets out a comprehensive federal strategy for reducing lead-based paint hazard exposure. This legislation amended the Toxic Substances Control Act (TSCA) to add [Title IV, Lead Exposure Reduction](#). On April 22, 2008, EPA issued a final rule under section 402(c)(3) of TSCA to address lead-based paint hazards created by renovations that disturb lead-based paint in target housing and child-occupied facilities. The Renovation, Repair and Painting Rule (RRP Rule) can be found at [40 CFR Part 745](#). *This Manual provides a summary description of the regulatory requirements but it is not a substitute for actual regulatory language.*

The RRP Rule requires:

- Firms must be certified to perform renovation, repair, and painting projects that disturb lead-based paint in target housing (most pre-1978 homes), and pre-1978 “child occupied facilities” such as child care facilities and schools, and must employ or use certified renovators who are trained by training providers to follow lead-safe work practices.
- Renovators and workers must use lead-safe work practices.
- Renovation firms must document that they have distributed information to owners, occupants, parents, and guardians whenever performing work covered by the RRP Rule in accordance with the PRE Rule.

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## EPA AUTHORIZED STATE AND TRIBAL PROGRAMS

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EPA may authorize a state, tribe, or territory to administer a federally-equivalent RRP program in lieu of the federal program. See 40 CFR Part 745, Subpart Q. Authorized RRP programs are governed by the laws and regulations established by the implementing jurisdiction rather than by TSCA and the RRP Rule. However, failure or refusal to comply with any requirements of an authorized program is an unlawful act under Sections 15 and 409 of TSCA. As of the date of this publication, Alabama, Delaware, Georgia, Iowa, Kansas, Massachusetts, Mississippi, North Carolina, Oklahoma, Oregon, Rhode Island, Utah, Washington, Wisconsin, and the Bois Forte Tribe have authorized programs. See the [EPA Lead-Safe Certification Program](#). This Manual applies only to inspections to determine compliance with TSCA and the federal RRP Rule, but also may be helpful to inspectors in authorized jurisdictions.

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## MONITORING RRP COMPLIANCE IN INDIAN COUNTRY

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EPA is authorized to conduct compliance inspections in Indian country. EPA compliance inspections in Indian country should be conducted in a manner consistent with this manual as well as the [EPA Policy for the Administration of Environmental Programs on Indian Reservations](#) and any EPA regional policies or guidance pertaining to Indian country. EPA

compliance inspectors should inform the regional Tribal Program Manager/Coordinator before conducting a compliance inspection in Indian country.<sup>1</sup>

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## OSHA

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OSHA regulates lead in construction at [29 CFR 1926.62](#). This OSHA rule applies to all construction work where an employee may be occupationally exposed to lead. Construction work is defined as work for construction, alteration and/or repair, including painting and decorating. OSHA and the EPA's Office of Enforcement (OECA's predecessor office) signed a Memorandum of Understanding on February 12, 1991, to establish a process and framework for notification, consultation, and coordination between EPA and OSHA to aid both agencies in identifying environmental and workplace health and safety problems and to more effectively implement enforcement of our national workplace and environmental statutes. Inspectors should be familiar with the OSHA regulation. If the compliance inspector suspects or finds a possible OSHA violation, the possible violation should be documented in the inspection report. When the compliance inspector returns to the office, the OSHA findings should be referred to the OSHA office closest to where the inspection took place. For a directory of regional and area OSHA offices, go to the [OSHA website](#).

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## RRP REGULATORY DEFINITIONS

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The RRP Rule applies to most (1) **renovations** (2) **performed for compensation** in (3) **target housing** and (4) **child-occupied facilities**.

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### “RENOVATIONS”

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**Renovation**, defined at 40 CFR 745.83, means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by 40 CFR 745.223. The term renovation may include:

- The removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)).
- The removal of building components (e.g., walls, ceilings, plumbing, windows).
- Weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planing thresholds to install weather-stripping).
- Interim controls that disturb painted surfaces.

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<sup>1</sup> Some inspections might be covered by a tribal delegation, and in this case, EPA will only be doing a small percentage of state/tribal oversight inspections. In the event that no delegation exists, the inspections that EPA will be doing could include work sites, training providers, and firms.

- A renovation performed for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility.

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### MINOR REPAIRS AND MAINTENANCE ACTIVITIES

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The term “renovation” does not include **minor repair and maintenance activities**, defined at 40 CFR 745.83. These are activities that:

- Disrupt 6 square feet or less of painted surface per room for interior activities, *or*
- 20 square feet or less of painted surface for exterior activities;
- Where none of the work practices prohibited or restricted by section 745.85(a)(3) are used; *and*
- Where the work does not involve window replacement or demolition of painted surface areas.

Minor repair and maintenance activities may include minor heating, ventilation or air conditioning work, electrical work, and plumbing. When removing painted components, or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Jobs, other than emergency renovations, performed in the same room within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

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### EMERGENCY RENOVATIONS

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**Emergency renovations**, 40 CFR 745.82(b), are renovation activities that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage. For example, natural disasters, such as tornadoes, hurricanes, earthquakes or floods, often result in the need for renovations to damaged homes and other structures. To ensure that property owners and occupants are able to act quickly to preserve their homes and property in the wake of disasters, the RRP Rule emergency provision exempts firms from certain requirements. The exemption applies *only to the extent necessary to respond to the emergency*. Once the portion of the renovation that addresses the source of the emergency is completed, the remaining activities are subject to all requirements of the RRP Rule. Under the emergency provision, contractors performing activities that are immediately necessary to protect personal property and public health need not be RRP trained or certified and are exempt from the RRP Rule information distribution requirement.

To the extent necessary to respond to the emergency, the following are exempt from the following RRP Rule requirements:

- Posting warning signs at the renovation site
- Containment of dust
- Waste handling
- Training

- Certification

Firms are NOT exempt from the RRP Rule's requirements related to:

- Cleaning
- Cleaning verification
- Recordkeeping

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#### “PERFORMED FOR COMPENSATION”

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The RRP Rule applies to renovations **performed for compensation**. It does not apply to a homeowner performing an RRP project in their own home. It does, however, apply to renovations performed by the owner of rental housing, who receives compensation in the form of rent.

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#### “TARGET HOUSING”

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The term **target housing**, 40 CFR 745.103, means any housing constructed before 1978, except housing for the elderly or persons with disabilities (unless any child under age 6 resides or is expected to reside in such housing) or any 0-bedroom dwelling. Per 40 CFR 745.103, housing for the elderly means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more at the time of initial occupancy. Note that target housing could include parts of a building.

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#### “CHILD-OCCUPIED FACILITIES”

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The term **child-occupied facility**, 40 CFR 745.83, means a building, or portion of a building, constructed prior to 1978 that is visited regularly by the same child, under 6 years of age, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least 3 hours and the combined weekly visits last at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to day care centers, preschools, and kindergarten classrooms.

Child-occupied facilities may be located in target housing or in public or commercial buildings. When a child-occupied facility is located in a public or commercial building, the child-occupied facility encompasses only those common areas that are routinely used by children under age 6, such as restrooms and cafeterias. Common areas that children under age 6 only pass through, such as hallways, stairways, and garages, are not included.

With respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age 6.

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## PRE-RENOVATION INFORMATION DISTRIBUTION REQUIREMENTS

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40 CFR 745.84 requires renovation firms to provide owners and occupants of target housing and child-occupied facilities with a lead hazard information pamphlet before beginning a renovation in target housing. EPA developed a renovation-specific lead hazard information pamphlet intended for use in fulfilling this requirement, [\*Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools\*](#).

The pamphlet explains:

- Basic facts about lead and health.
- Tips for a property owner choosing a contractor.
- What tenants should consider.
- How to prepare for a renovation or repair job.
- What to look for during the job and after the job is done.
- Where to get more information about lead.

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### RENOVATIONS IN TARGET HOUSING

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Firms performing renovations in individual units of single-family or multi-family target housing must distribute the pamphlet to the owners and occupants of the housing no more than 60 days before beginning renovations in a housing unit and obtain a written acknowledgment that the owner has received the pamphlet or obtain a certificate of mailing at least 7 days prior to renovation.

If the owner does not occupy the dwelling, the firm must also provide an adult occupant with the pamphlet and either obtain written acknowledgement of the occupant's receipt of the pamphlet or obtain a certificate of mailing at least 7 days prior to renovation. If the occupant is unavailable, the firm may certify in writing that a pamphlet has been delivered to the dwelling and that firm has been unsuccessful in obtaining a written acknowledgment from an adult occupant.

Generally, for renovations in common areas of multi-unit target housing, the firm must do one of the following and prepare, sign, and date a statement describing the steps performed to notify all occupants of the intended renovation:

- Mail or hand-deliver general information about the renovation and make a copy of the pamphlet available to the tenants of affected units upon request prior to the start of the renovation, or
- Post informational signs while the renovation is ongoing. These signs must be posted where they are likely to be seen by all of the tenants of the affected units and they must contain a description of the general nature and locations of the renovation and the anticipated completion date. The signs must be accompanied by a posted copy of the

pamphlet or information on how interested tenants can review or obtain a copy of the pamphlet at no cost to the tenants, or

- Provide the owners and occupants revised information in the same manner as the initial notification if the scope, locations, or expected starting and ending dates of the renovation activities change.

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## RENOVATIONS IN CHILD-OCCUPIED FACILITIES

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Firms performing renovations in a child-occupied facility in a public or commercial building must provide the lead hazard information pamphlet to the owner of the building before beginning renovations. The renovation firm must provide the pamphlet to an adult representative of the child-occupied facility if the facility and the building are owned by different entities. The renovation firm must either obtain written acknowledgment from the owner or facility representative that the pamphlet was delivered or obtain a certificate of mailing for the pamphlet at least seven days prior to the start of the renovation. Alternatively, the firm may certify in writing that the pamphlet has been delivered to the child-occupied facility and the firm has been unsuccessful in attempting to obtain the signature of an adult representative of the child-occupied facility. This certification must contain the reason for the failure to obtain the signature.

The renovation firm must also provide, or make available, general information on the renovation and the pamphlet to parents or guardians of children under age 6 using the child-occupied facility. This can be done by mailing or hand-delivery or by posting informational signs containing general information on the renovation in areas where the signs can be seen by the parents or guardians of the children frequenting the child-occupied facility. The signs must be accompanied by a posted copy of the pamphlet or information on how interested parents or guardians can review a copy of the pamphlet or obtain a copy from the renovation firm at no cost to the parents or guardians. This requirement applies to renovations in child-occupied facilities in target housing as well as to renovations in child-occupied facilities in public or commercial buildings.

The firm must prepare, sign, and date a statement describing the steps performed to notify all parents and guardians of the intended renovation activities and to provide the pamphlet.

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## SUPPLEMENTAL GUIDANCE ON INFORMATION DISTRIBUTION

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For complete information on these requirements, read the EPA [Small Entity Compliance Guide to Renovate Right](#).<sup>2</sup> Additional resources include:

- [Pre-Renovation Confirmation Form](#) is a sample of the form to be signed by the owner or tenant confirming that they received a copy of the lead hazard information pamphlet before renovations begin.

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<sup>2</sup> This guide also is available in [Spanish](#).

- [Renovation Notice and Record of Tenant Notification Procedures](#) provides samples of the forms used to notify occupants of renovation activities in common area(s) of multi-family housing.

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## EMERGENCY RENOVATIONS

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Emergency renovations are exempt from the pre-renovation information distribution requirements. See 40 CFR 745.82(b). Emergency renovations include interim controls performed in response to a child with an elevated blood lead level. For more information about emergency exemptions, visit EPA's [Post-Disaster Renovations and Lead-based Paint](#).

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## TRAINING AND CERTIFICATION

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### CERTIFICATION REQUIREMENTS FOR FIRMS

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Any firm that is compensated to perform work that disturbs paint or conducts lead dust clearance sampling in housing or child-occupied facilities built before 1978 must be certified. See 40 CFR 745.89 and 40 CFR 745.226. EPA defines "firm" as a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity; a federal, state, tribal, or local government agency; or a nonprofit organization. This may include residential rental property owners/managers, general contractors, subcontractors or specialty trade contractors like painters, plumbers, carpenters, and electricians. A self-employed renovator or dust sampling technician must also be certified as a firm. All firms, including sole proprietorships, must be certified and ensure that all persons performing renovation or dust sampling activities on behalf of the firm are properly trained and certified.

A firm that wishes to become certified to perform renovations must submit an application and the correct amount of fees, and attest that it will assign a certified renovator to each renovation that it performs, use only certified or properly trained individuals to perform renovations, and follow the work practice standards and recordkeeping requirements in this regulation. EPA will certify any firm that meets these requirements unless EPA determines that the environmental compliance history of the firm, its principals, or its key employees demonstrate an unwillingness or inability to maintain compliance with environmental statutes or regulations.

A firm must amend its certification within 90 days whenever a change occurs to information included in the firm's most recent application. If a firm failed to amend its certification within 90 days of the date the change occurred, the firm would not be authorized to perform renovations until its certification was amended. Examples of amendments include a change in the firm's name without transfer of ownership, or a change of address or other contact information.

To amend its certification, a firm must submit an application, noting on the form that it was submitted as an amendment. The firm must complete the sections of the application pertaining to the new information, and sign and date the form. Amending a certification will not affect the

validity of the existing certification or extend the certification expiration date. EPA will issue the firm a new certificate if necessary to reflect information included in the amendment.

Firm certifications are not transferable — if the firm is sold, the new owner must submit a new initial application for certification.

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### CERTIFICATION REQUIREMENTS FOR RENOVATORS

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A number of tasks performed during a renovation project covered by the RRP Program rule must be performed and/or directed by an individual who has become a certified renovator by successfully completing a renovator course accredited by EPA or by a state, territorial, or tribal program authorized by EPA. See 40 CFR 745.90 and 40 CFR 745.226. EPA renovator certification allows the certified individual to perform renovations in any state or Indian tribal area that does not have a renovation program authorized by EPA.

To become a certified renovator, an individual must successfully complete an 8-hour initial renovator course accredited by EPA or by a state, territorial, or tribal program authorized by EPA. The course completion certificate serves as proof of certification and must be kept at the job site. The initial renovator course covers:

- The roles and responsibilities of a renovator.
- Background information on lead and its health effects.
- Background on applicable federal, state, and local regulations and guidance.
- Use of acceptable test kits to test paint to determine whether it is lead-based paint.
- Methods to minimize the creation of lead-based paint hazards during renovations.
- Containment and clean-up methods.
- Ways to verify that a renovation project has been properly completed, including cleaning verification.
- Waste handling and disposal.
- Hands-on activities relating to renovation methods, containment and clean-up, cleaning verification, and waste handling.
- Instruction in providing on-the-job training to renovation workers.
- Recordkeeping requirements.

The accredited training program will submit identifying and contact information to EPA regarding the individuals they have trained. To maintain certification, a renovator must successfully complete either a refresher course for renovators, accredited by EPA or by a state, territorial, or tribal program authorized by EPA, or complete the initial renovator course every three or five years depending on the situation. If a renovator chooses to take a refresher or initial course with hands on training to maintain certification, the certification is good for five years. If a renovator chooses to take a refresher course without hands on training to maintain certification, this is allowed for every other certification and is good for three years. This would effectively allow for online training for the refresher course every other certification.

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## CERTIFICATION REQUIREMENTS FOR DUST SAMPLING TECHNICIANS

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Dust sampling technicians certified under the RRP Rule are able to perform dust clearance sampling after renovations and for purposes of the U.S. Department of Housing and Urban Development (HUD) Lead Safe Housing Rule. To become a certified dust sampling technician, an individual must successfully complete a dust sampling technician training course accredited by EPA or by a state, territorial, or tribal program authorized by EPA. See 40 CFR 745.90 and 40 CFR 745.226. EPA certification allows the certified individual to perform dust sampling in any State or Indian tribal area that does not have a renovation program authorized by EPA. The accredited training program will submit identifying and contact information to EPA regarding the individuals they have trained. The course completion certificate serves as proof of certification and must be kept at the job site.

The initial dust sampling technician course covers:

- The roles and responsibilities of a dust sampling technician.
- Background information on lead and its adverse health effects.
- Background information on federal, state, and local regulations and guidance that pertains to lead-based paint and renovation activities.
- Dust sampling methodologies.
- Clearance standards and testing.
- Report preparation and recordkeeping requirements.
- Hands-on activities.

To maintain certification, a dust sampling technician must successfully complete either a refresher course for dust sampling technicians that is accredited by EPA or by a state, territorial, or tribal program authorized by EPA, or complete the initial dust sampling technician course every five years.

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## TRAINING REQUIREMENTS FOR RENOVATION WORKERS

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The RRP Rule does not require everyone involved in performing a renovation to receive training from an accredited training provider. To allow flexibility for firms undertaking these projects, the rule allows firms to use other workers to perform certain renovation activities as long as they receive on-the-job training (OJT) in work practices from a certified renovator. This training must include instruction in the specific work practices that these workers will be responsible for performing. The renovation worker does not need to become certified, the employer is not required to issue a course completion certificate, and no refresher training is required. Instead, the employer must provide on-the-job training and must keep records of the training provided to each worker.

OJT will vary widely from project to project. OJT can occur on-site while the worker is engaged in productive work, or can be provided through structured training at the work setting or at a location that closely resembles the work setting. Workers who will be on-site throughout the

renovation are to receive OJT, either verbally or through demonstration, in how to perform the work without using work practices prohibited by this rule, how to maintain the integrity of the containment barriers (e.g., taking care not to tear the plastic), and how to avoid spreading dust or debris beyond the work area (e.g., vacuuming clothing and tools with a HEPA vacuum before leaving the work area).

If a worker will not be establishing containment, there is no need to train the worker in how to establish containment. If the worker in question is an electrician, and will merely be installing an electrical outlet as part of a larger job, then there may be no need to provide any training to this worker other than instructing him or her not to disturb the plastic on the floor and making sure that he/she and his/her tools are free of dust and debris before leaving the work area.

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## ACCREDITED TRAINING PROVIDERS

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All required training must be delivered by an accredited training provider. See 40 CFR 745.225. A training provider can seek accreditation from EPA. A training provider cannot offer, provide or claim to provide EPA accredited lead-based paint activities courses without applying for and receiving EPA accreditation. The regulation specifies responsibilities for training managers, principal instructors, and guest instructors and provides requirements for course subject matter, including hands-on activities.

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## WORK PRACTICE STANDARDS

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The RRP Rule contains a number of work practice requirements that must be followed for every covered renovation in target housing and child-occupied facilities. See 40 CFR 745. Each firm must ensure compliance with these work practice standards. The certified renovator assigned to a job is responsible for ensuring that the renovation is performed in compliance with lead safe work practices. Generally, a certified renovator must:

- Perform or direct workers who perform all of the work practices described in 40 CFR 745.85(a).
- Perform the post-renovation cleaning verification. This task may not be delegated to workers who only have on-the-job training.
- Provide training to workers on the work practices they will be using in performing their assigned tasks.
- Be physically present at the work site when warning signs are posted, while the work area containment is being established, and while the work area cleaning is performed.
- Regularly direct the work being performed by other workers to ensure that the work practices are being followed, including maintaining the integrity of the containment barriers and ensuring that dust or debris does not spread beyond the work area.
- Be available, either on-site or by telephone, at all times that renovations are being conducted.

- When requested by the party contracting for renovation services, use an acceptable test kit to determine whether components to be affected by the renovation contain lead-based paint.
- Have with them at the work site copies of their initial course completion certificate and their most recent refresher course completion certificate.
- Prepare the records required to demonstrate that renovations have been performed in accordance with the requirements of this rule.

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## OCCUPANT PROTECTION

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The RRP Rule requires the firm to post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area. The certified renovator must be physically present at the work site when the required signs are posted. These signs must be posted before beginning the renovation and remain in place until the renovation and cleaning verification have been completed. The signs must be, to the extent practicable, provided in the occupants' primary language. If warning signs have been posted in accordance with HUD's Lead Safe Housing Rule (24 CFR 35.1345(b)(2)) or OSHA's Lead in Construction Standard (29 CFR 1926.62(m)), additional signs are not required.

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## CONTAINMENT

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The certified renovator must be physically present at the work site when the required containment is established. The firm must isolate the work area so that dust or debris does not leave the work area while the renovation is being performed. The firm must maintain the integrity of the containment by ensuring that any plastic or other impermeable materials are not torn or displaced, and by taking any other steps necessary to ensure that dust or debris does not leave the work area while the renovation is being performed.

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## INTERIOR PROJECTS

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Containment for interior projects must include:

- Removing or covering all objects in the work area with plastic or other impermeable material.
- Closing and covering all forced air HVAC ducts in the work area with plastic or other impermeable material.
- Closing all windows in the work area.
- Closing and sealing all doors in the work area with plastic or other impermeable material.
- Covering the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area 6 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater.

- Doors within the work area that will be used while the job is being performed must be covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.
- All personnel, tools, and other items, including the exterior of containers of waste, must be free of dust and debris before leaving the work area. There are several ways of accomplishing this. For example, tacky mats may be put down immediately adjacent to the plastic sheeting covering the work area floor to remove dust and debris from the bottom of the workers' shoes as they leave the work area, workers may remove their shoe covers (booties) as they leave the work area, and clothing and materials may be wet-wiped and/or HEPA-vacuumed before they are removed from the work area.

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### EXTERIOR PROJECTS

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Containment for exterior projects must include:

- Covering the ground with plastic sheeting or other impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents 10 feet of such ground covering and then vertical containment should be used.
- Closing all doors and windows within 20 feet of the outside of the work area on the same floor as the renovation and closing all doors and windows on the floors below that area.
- The certified renovator or a worker under the direction of the certified renovator performing the renovation may have to take extra precautions to prevent dust and debris from leaving the work area in certain situations. Where other buildings are in close proximity to the work area, or where the work area abuts a property line, extra precautions may be necessary. This may include various procedures to prevent dust and debris from migrating to adjacent property or contaminating the ground, other buildings, or any object beyond the work area.

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### WASTE FROM RENOVATIONS

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Steps must be taken to contain waste to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal. If a chute is used to remove waste from the work area, it must be covered. At the end of each work day the waste that has been collected from renovation activities must be stored under containment, in an enclosure, or behind a barrier that prevents release of dust and debris from the work area and prevents access to dust and debris. Lead-based paint waste being transported from a work site must be contained to prevent releases. For example, waste can be transported if securely contained inside a plastic garbage bag.

EPA revised its solid waste regulations in 40 CFR Parts 257 and 258 to make clear that lead-based paint waste generated through renovation and remodeling activities in residential settings may be disposed of in municipal solid waste landfill units or in construction and demolition landfills. Lead-based paint waste generated through renovation and remodeling activities from a

child-occupied facility would need to have a waste determination made for the presence of hazardous waste. Requirements for waste disposal may vary by jurisdiction, and state and local requirements may be more stringent than federal requirements. When disposing of waste, including wastewater, from renovation activities, the renovation firm must ensure that it complies with all applicable federal, state, and local requirements.

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## CLEANING THE WORK AREA

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The RRP Rule contains a number of specific cleaning steps that must be followed after performing a covered renovation. All renovation activities that disturb painted surfaces can produce dangerous quantities of leaded dust. Because very small particles of leaded dust are easily absorbed by the body when ingested or inhaled, it can create a health hazard for children. Unless this dust is properly removed, renovation and remodeling activities are likely to introduce new lead-based paint hazards. Therefore, the RRP Rule requires prescriptive cleaning practices.

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## CLEANING INTERIOR RENOVATIONS

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Upon completion of renovation activities, all paint chips and debris must be picked up. Protective sheeting must be misted and folded dirty side inward. Sheeting used to isolate the work area from other areas must remain in place until after the cleaning and removal of other sheeting; this sheeting must be misted and removed last. Removed sheeting must either be folded and taped shut to seal in paint chips or debris, or sealed in heavy-duty bags and disposed of as waste.

After the sheeting has been removed from the work area, the entire area must be cleaned, including the adjacent surfaces that are within 2 feet of the work area. The walls, starting from the ceiling and working down to the floor, must be vacuumed with a HEPA vacuum or wiped with a damp cloth. All surfaces and objects in the work area, including floors, furniture and fixtures, must be thoroughly vacuumed with a HEPA-equipped vacuum. When cleaning carpets, the HEPA vacuum must be equipped with a beater bar to aid in dislodging and collecting deep dust and lead from carpets.

After vacuuming, all surfaces and objects in the work area must be wiped with a damp cloth, except for walls and carpeted or upholstered surfaces. Uncarpeted floors must be thoroughly mopped using a 2-bucket mopping method that keeps the wash water separate from the rinse water, or using a wet mopping system with disposable absorbent cleaning pads and a built-in mechanism for distributing or spraying cleaning solution from a reservoir onto a floor or a method of equivalent efficacy.

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## CLEANING EXTERIOR RENOVATIONS

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For cleaning following an exterior renovation, all paint chips and debris must be picked up. Protective sheeting must be misted and folded dirty side inward. Removed sheeting must be

folded and taped shut to seal in paint chips or debris or sealed in heavy-duty bags and disposed of as waste.

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## POST-RENOVATION VISUAL INSPECTION AND CLEANING VERIFICATION

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The RRP Rule requires a certified renovator to conduct post-renovation visual inspection and, for interior renovations, the use of disposable cleaning cloths **after** cleaning both as a final cleaning step and as verification that the containment and cleaning have sufficiently cleaned up the lead-paint dust created by the renovation activity.

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### VISUAL INSPECTION

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The RRP Rule requires a certified renovator to perform a visual inspection of the work area after it has been cleaned. This visual inspection is for the purpose of determining whether dust, debris, or other residue is present in the work area. If dust, debris or other residue remains on surfaces in and below the work area, including windowsills and the ground, re-cleaning and another visual inspection must be performed. When an exterior work area passes the visual inspection, the renovation has been properly completed and the warning signs may be removed.

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### CLEANING VERIFICATION

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**Windowsills.** A certified renovator must wipe each interior windowsill in the work area with a wet disposable cleaning cloth and compare the cloth to a cleaning verification card developed by EPA. If the cloth matches or is lighter than the image on the card, that windowsill has passed the post-renovation cleaning verification. If the cloth is darker than the image on the card, the certified renovator must re-clean the windowsill and re-verify. After re-cleaning, that section of the surface must be verified again using a new wet disposable cleaning cloth. If the second wet cloth matches or is lighter than the image on the cleaning verification card, that section of the windowsill has passed. If the second wet cloth does not match and is darker than the image on the verification card, the certified renovator must wait for one hour or until the surface has dried, whichever is longer. The windowsill is then wiped with a dry disposable cleaning cloth. After this wipe, the windowsill has been adequately cleaned. Each windowsill in the work area must pass the post-renovation cleaning verification process.

**Floors and countertops.** A certified renovator must wipe no more than 40 square feet of floor or countertop area at a time with a wet disposable cleaning cloth. For floors, the renovator must use an application device consisting of a long handle and a head to which a wet disposable cleaning cloth is attached. If the floor and countertop surfaces in the work area exceed 40 square feet, the certified renovator must divide the surfaces into sections, each section being no more than 40 square feet, and perform the post-renovation cleaning verification on each section separately.

If the wet cloth used to wipe a particular section of surface matches or is lighter than the image on the cleaning verification card, that section has passed the post-renovation cleaning verification. If, however, on the first wiping of a section of the surface, the wet cloth does not

match and is darker than the image on the cleaning verification card, the surface of that section must be re-cleaned. After re-cleaning, that section of the surface must be verified again using a new wet disposable cleaning cloth. If the second wet cloth matches or is lighter than the image on the cleaning verification card, that section of the floor has passed. If the second wet cloth does not match and is darker than the image on the verification card, the certified renovator must wait for one hour or until the surface has dried, whichever is longer. Then, the certified renovator must wipe each of those 40 square foot sections of the floor or countertop surfaces that did not achieve post-renovation cleaning verification using the wet cloths with a dry disposable cleaning cloth. At that point, the floors and countertops have passed the post-renovation cleaning verification process and the warning signs may be removed.

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## AFTER CLEANING VERIFICATION

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When all windowsills, countertops, and floor areas in the work area have passed post-renovation cleaning verification, the warning signs may be removed. Dust clearance sampling in lieu of post-renovation cleaning verification is optional and may be used where the contract between the renovation firm and the property owner or another federal, state, territorial, tribal, or local regulation requires dust clearance sampling by a certified sampling professional and requires the renovation firm to clean the work area until it passes clearance.

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## PROHIBITED AND RESTRICTED PRACTICES

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The RRP Rule prohibits or restricts the use of certain work practice standards during regulated renovations. These practices are:

- Open-flame burning or torching.
- Using machines that remove lead-based paint through high speed operation such as sanding, grinding, power planing, needle gun, abrasive blasting, or sandblasting, unless such machines are used with a HEPA vacuum attachment.
- Operating a heat gun above 1100 degrees Fahrenheit.

While the RRP Rule does not prohibit or restrict the use of volatile paint strippers or other hazardous substances to remove paint, the use of these substances is prohibited in poorly ventilated areas by HUD's Lead Safe Housing Rule and is regulated by OSHA.

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## RECORDKEEPING REQUIREMENTS

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Firms performing renovations must retain documentation of compliance with the work practice standards and other requirements of the rule. Specifically, the firm must document:

- A certified renovator was assigned to the project.
- The certified renovator provided on-the-job training for workers used on the project.

- The certified renovator performed or directed workers who performed the tasks required by this final rule.
- The certified renovator performed all of the regulatory duties established for certified renovators, including the post-renovation cleaning verification, and including the results and number of cleaning verification cloths used.
- Any lead-based paint determinations.
- Any records of lead-based paint testing done by a certified renovator including an identification of the manufacturer and model of any test kits used, a description of the components that were tested including their locations, and the result of each test kit used.
- The firm provided the owner and occupant with compliance information such as documentation of lead safe work practices and testing results when the final invoice for the renovation was delivered or within 30 days of the completion of the renovation.

This documentation must include a copy of the certified renovator's training certificate. Finally, the documentation must include a certification by the certified renovator that the work practices were followed, with narration as applicable. The firm must keep this information for three years after the completion of the renovation.

See recordkeeping requirements at 40 CFR 745.86. To make recordkeeping easier, EPA developed a [Sample Record Keeping Checklist](#) to help contractors comply with the renovation recordkeeping requirements.

# Chapter Three

## The Inspection

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## AUTHORITY TO CONDUCT LEAD-BASED PAINT INSPECTIONS

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TSCA Section 11 authorizes inspections to determine compliance with TSCA lead-based paint (LBP) requirements, including the RRP Rule. In pertinent part, TSCA Section 11 states that EPA:

[m]ay inspect any . . . premises in which . . . products subject to subchapter IV<sup>1</sup> [the LBP subchapter] are manufactured, processed, stored, or held before or after their distribution in commerce. Such inspection may be made only upon the presentation of appropriate credentials and of a written notice to the owner, operator, or agent in charge . . . of the premises . . . to be inspected. . . . Each such inspection shall be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner.<sup>2</sup>

Pursuant to TSCA Section 11, EPA conducts work site and record review inspections to determine compliance with RRP Rule requirements. TSCA Section 15 makes it a prohibited act, subject to penalties under TSCA Section 16, for any person to fail or refuse to permit entry or inspection as required under TSCA Section 11. 40 CFR 745.87 (e) sets forth that “[l]ead-based paint is assumed to be present at renovations covered by this subpart. EPA may conduct inspections and issue subpoenas pursuant to the provisions of TSCA Section 11 to ensure compliance with this subpart.”

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## PRE-INSPECTION ACTIVITIES

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Pre-inspection activities are intended to ensure that the inspection is well planned and the inspector is fully prepared. Whenever possible, before conducting an inspection, the inspector should always: (1) review available information; (2) create a written inspection plan; and (3) prepare necessary documents and equipment.

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## REVIEWING AVAILABLE INFORMATION

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The inspector should obtain the name and address of the inspection work site or the entity to be inspected, and determine if the target has been inspected previously. If so, the inspector should obtain and review the file for all previous inspections. Efforts should be made to research the inspection target including the size of the company, sales information, services offered, ownership of the company and the geographic area covered by their services.

If the inspection was the result of a tip or complaint, then the inspector should find out as much

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<sup>1</sup> EPA considers LBP to be a “product” under TSCA. See TSCA §405(f), 15 U.S.C. §2685.

<sup>2</sup> 15 U.S.C. §2610(a).

as possible about the content of the tip/complaint. Depending on the content of the tip/complaint, the inspector will be able to determine who needs to be inspected, who to interview, and when to conduct interviews, if any. The inspector may also be able to determine if additional research is needed and any specific violations to look for during the inspection.

For all RRP inspections, it is expected that many inspection targets may be small businesses or individuals; therefore, publicly available information may be limited. However, an inspector can check the following sources, among others:

- Dun & Bradstreet contains business information;
- Integrated Compliance Information System (ICIS) may have information obtained through prior enforcement actions;
- Enforcement case dockets may have information about where there have been prior violations;
- The relevant state or tribal agencies where the residence, child-occupied facility or site is located may have information useful to an inspection;
- An internet search can yield useful information.

For worksite inspections there are a number of local resources that can be sources of information:

- Research the site location by consulting maps;
- Check county, city and municipal records to verify if the property is target housing, subsidized or HUD housing, or housing for the elderly or disabled and, if possible, identify the physical layout of the property;
- Check with the local tax assessment office and verify ownership, construction date, whether it is multiple family and the number of units present;
- Elevated Blood Level (EBL) data from state or local health departments;
- Environmental Justice (EJ) information from [EJScreen](#).

For inspections of RRP training programs, a compliance inspector's primary source of information will be the training provider's application for accreditation. This application will outline the proposed courses to be taught, course structures, hands-on training, testing, and quality control plans. The inspector should be able to locate the application in the inspector's region or in the region issuing a multi-regional accreditation. The compliance inspector will also need the location of the training program and the number of employees prior to conducting the inspection. See also "Training Provider Inspections," below.

Online resources for background information may include:

- <http://www.corporationwiki.com/>
- <http://www.dunandbradstreet.com/> (through the EPA Library)
- <http://www.zillow.com/>, [www.realtor.com](http://www.realtor.com/) or another commercial real estate website

- <http://publicrecords.netronline.com/>
- <http://www.lexis.com/> (through the Office of Regional Counsel)

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### THE WRITTEN INSPECTION PLAN

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It is recommended that an inspector create a written inspection plan. A written inspection plan can be based on a Standard Operating Procedure (SOP) or a standardized inspection checklist for each type of RRP inspection. An SOP or an inspection checklist should serve as a pre-inspection planning tool to help the inspector organize the necessary information, materials and equipment for the inspection. A Quality Assurance Project Plan (QAPP) should be developed if sampling or field measurements are expected during an inspection. The QAPP should: (1) document how quality assurance and quality control are applied to an environmental sample or field measurement to assure that the results obtained are the type and quality needed and expected for their desired and intended use; (2) ensure that all sampling and measurement activities produce data that can serve as evidence in court and withstand legal challenge; and (3) vary in their level of complexity based on the nature of the work, the available resources and the intended use of the data. See also “Physical Evidence” below.

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### PREPARATION OF DOCUMENTS AND EQUIPMENT

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The inspector should gather and prepare all necessary documents and equipment to be used during the inspection.

- A suggested equipment list is provided in Exhibit 1.
- The inspector will need the following forms:
  - The Notice of Inspection (NOI) Form — This document provides notice to the inspection target as to the basis for the inspection. The inspector should also use the form to document providing notice to the TSCA section 11 “owner, operator, or agent in charge of the premises” as to the basis of the inspection, and to capture the consent to enter the property from the property owner (or other authorized person). Once signed, the NOI will be evidence that proper consent was given for the inspector to enter the property. The inspector should also write in their notes that consent was provided to enter the property.
    - The inspector generally uses the Notice of Inspection Form to discharge the three distinct duties required prior to any RRP inspection:
      - (1) Obtain consent for access from the property owner (or a person with “common authority” over the property) in accordance with the U.S. Constitution;
      - (2) Present an NOI and credentials to the “owner, operator or agent in charge of the premises,” per TSCA section 11; and
      - (3) Present an NOI and credentials to the regulated entity, for Fair Notice and other purposes.Typically, these separate obligations require the inspector to engage

with two different individuals: the property owner and the regulated entity. The inspector, however, is expected to use his/her best judgment regarding whether, in a specific situation, a particular individual qualifies for multiple purposes, and should consult his/her Office of Regional Counsel for guidance, if necessary. See “Presentation of Notice of Inspection and Credentials,” and “Gaining Entry,” below.

- The TSCA Inspection Confidentiality Notice Form (Form 7740-4) — This document provides necessary information concerning TSCA CBI and must be presented to the inspection target at the outset of an inspection. More information is provided on CBI in Chapter 1.
  - The Declaration of Confidential Business Information Form (Form 7740-2) — This document should be filled out at the time of inspection whenever an inspection target is asserting a claim of CBI.
  - The Receipt for Documents Form — This document is used to identify all samples and documents taken by the compliance inspector during an EPA inspection.
- The inspector will need to bring the following pamphlets/informational documents to every inspection:
    - For private property owner or operator:
      - [Childproof Your Home Improvements](#)<sup>3</sup>
      - [TSCA/RRP Information Sheet on Access to Private Property](#)
    - For renovator:
      - [Small Business Information Sheet](#)
      - [Small Entity Compliance Guide to Renovate Right](#)<sup>4</sup>
      - [TSCA/RRP Information Sheet on CBI](#)
  - To assist the inspector during the inspection, an “inspection checklist” may serve as a tool to ensure that all regulatory elements applicable to the particular inspection have been covered during the inspection. Checklists are an inspection tool and do not substitute for the inspector’s requisite knowledge nor for an Inspection Report.

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## PRESENTATION OF NOTICE OF INSPECTION AND CREDENTIALS

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TSCA Section 11 requires the inspector to present a written notice of the inspection as well as appropriate credentials to the owner, operator, or agent in charge of the premises. This duty to

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<sup>3</sup> This information sheet also is available in [Spanish](#).

<sup>4</sup> This information sheet also is available in [Spanish](#).

give notice applies even though, for RRP, the premises owner ordinarily is not subject to inspection; and is a separate requirement from the duty to obtain consent for entry from the property owner. In addition, for the purposes of conducting RRP worksite inspections, presentation of the NOI and credentials also should be made to the regulated entity since it is the regulated entity to which the TSCA requirements apply. The regulated entity will be the renovator or the renovation firm's owner, operator, or agent. Presentation should be made, therefore, to the renovator or the renovation firm's owner, operator or agent in addition to the owner, operator or agent in charge of the premises. If they are unavailable, then presentation may be made to any person engaged in the renovation at the direction or behest of these regulated entities (i.e., the on-site workers). If no renovation personnel are available or if the owner, operator or agent in charge of the premises is not available, the inspector should use an alternative approach to present the notice of inspection and credentials, as described below.

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### ALTERNATIVE APPROACHES TO PRESENTATION

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When no renovation personnel are available, and/or the owner, operator, or agent in charge of the premises is not available, an inspector should present the notice of inspection and credentials in whatever way is reasonable under the circumstances. The approach used for presentation should be recorded/documented and may include, but are not limited to, the following:

- Attempt to contact (e.g., telephone, text, e-mail) the renovator or representative of the renovation firm and ask that they promptly appear on-site. The RRP Rule requires that a certified renovator be present or on-call throughout the work.
- If contacting the renovation firm is not effective or not possible, then post the Notice of Inspection and the inspector's business card in a conspicuous location at the work site (i.e., on the wall or tools); photograph or otherwise memorialize the posting and include a detailed description of the situation in the inspection report. If a local inspector is present, then obtain a statement from that inspector which attests to the situation, EPA's presentation effort and the physical condition of the work area. Inspectors can use the TSCA Statement Form to record statements.
- Posting the inspector's business card is a reasonable approach to presentation since it provides sufficient information for the recipient to identify the inspector and seek substantiation of their appropriate credential.
- Other approaches may be reasonable under the circumstances. The inspector may consult with the Office of Regional Counsel for guidance on a case-specific basis.
- EPA has no legal obligation to make presentation in any language other than English to accommodate renovation personnel who are presumed to be non-English speaking. A region, however, may elect to develop inspection notices and business cards in alternative languages.

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## GAINING ENTRY

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To conduct an inspection, the inspector must gain entry to private property. The U.S. Constitution, however, guarantees a reasonable expectation of privacy as to private property. Therefore, to gain entry to private property to conduct an inspection, EPA needs to obtain a warrant **UNLESS** the inspector receives *informed, voluntary consent* from the owner of the property or from a person in control of the property in the absence of the owner. If consent is denied and a warrant is necessary, a warrant can be based on “probable cause” or a “neutral administrative inspection scheme.” Probable cause is a reasonable suspicion that a violation has occurred or is occurring. EPA conducts inspections pursuant to a neutral inspection scheme when it is not doing for-cause inspections. A neutral inspection scheme allows for a non-arbitrary method of identifying inspection targets and the neutral selection of establishments for inspection.

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## CONSENT FOR ENTRY

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An inspector can enter private property to conduct inspections by obtaining valid consent. Consent to enter must be freely and voluntarily given and not given because of duress, misrepresentation, or coercion (either expressed or implied). While the law does not require that a subject be advised of his/her right to refuse to give consent, if the inspector believes such knowledge may be helpful in validating the consent and in overcoming any taint of implied coercion, he/she may inform the consenting party of his/her right to refuse voluntary entry. In addition, the person granting the consent must be authorized to do so. The inspector must be reasonably certain that the consenting party is the property owner or has the premises under his/her control and has at least the apparent authority to give consent. The inspector should also consider totality of the circumstances when making the decision to enter.

If an inspector plans to make multiple visits to the same location for inspection or sampling purposes, the inspector must gain consent for each entry unless the inspector obtained prior consent to cover all necessary entries. Accordingly, at the onset of an inspection, the inspector must seek to gain consent sufficient to authorize all entry and sampling activities he/she contemplates will be necessary to complete the inspection.

Once the inspector has consent to enter, the inspector may enter the private property and conduct the inspection.

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## STEPS FOR OBTAINING CONSENT FOR ENTRY

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Upon arrival, the inspector must:

1. Find the Right Person — Identify and introduce himself/herself to the property owner, operator, or agent in charge (responsible official of the facility or a tenant); known as the person authorized to give consent.
2. Inform the Person Authorized to Give Consent for Entry —

- a. Present EPA credentials. Do not relinquish possession of the credential and do not allow anyone to make copies of the credential.
  - b. Discuss the purpose of the inspection with the person authorized to give consent for entry.
  - c. Present the person authorized to give consent for entry a completed Notice of Inspection.
3. Document the Informed Consent — Request that the NOI be signed by the person authorized to give consent. The signature of the person authorized to give consent is important since it documents that informed consent was given for entry to the property to inspect for RRP compliance. Alternatively, as long as a written consent contains all the necessary elements, it can be an email or memorialized in another writing. Although written consent is preferred, oral consent can be granted so long as the circumstances surrounding the consent is documented in a contemporaneous way.

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### FINDING THE RIGHT PERSON TO GIVE CONSENT FOR ENTRY

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RRP inspections present a unique situation in that the person authorized to give consent to enter the private property is often not the regulated entity who is the subject of the compliance monitoring inspection — which is the renovator/ firm. Therefore, the inspector needs to be mindful that the renovator is not typically the person authorized to give consent to enter. It is likely that the person with the authority to give consent to enter is not familiar with RRP. Therefore, the inspector should take the time to explain RRP to the property owner, operator or agent in charge and why the inspector is attempting to enter the property to conduct the inspection. To provide the requisite information, the inspector should offer an informational flyer and make it clear that the purpose of the request for entry is to observe the renovation project for compliance with the RRP Rule. The inspector may use Childproof Your Home Improvements as an information tool for the owner, operator or agent-in-charge. It may be helpful to review the sample inspector script (Exhibit 2) before seeking consent for entry.

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### COMMON AUTHORITY

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Informed consent may be sought from the property owner or from someone with common authority over the worksite (this is known as “third party consent”). Determining whether someone has common authority over the property at which a worksite is located is judged by the totality of the circumstances. Examples of persons who may have common authority include a tenant, a building manager, a general contractor, or even the renovator. The inspector should consult with the Office of Regional Counsel if necessary for guidance in this determination. The inspector will need to exercise judgment as to whether a member of the household has common authority to grant access. Persons who live on the premises and are of the age of majority will very likely be viewed as possessing common authority. Minors cannot give consent. Family members who do not live on the premises are not likely to have common authority.

The EPA inspector may partner with personnel from other agencies with whom the person authorized to give entry consent already has a positive rapport, such as a health department

nurse, or social worker, or housing inspector. Being accompanied by someone known to the person authorized to give entry consent may make it easier for EPA to obtain its own consent for access.

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#### COMMON AREAS, PUBLIC AREAS AND NEIGHBORING PROPERTY

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The informed consent of the property owner or person with common authority would be valid to grant access to common areas of private property. Common areas may include interior hallways in multi-family buildings or exterior areas of private property. Consent to enter is not required for public areas such as sidewalks, streets, and public parks. Therefore, the inspector may interview workers or observe renovation activities from public areas without consent. An inspector may view renovation activity from neighboring property as long as the inspector is on that property rightfully — if a neighbor grants access to their property or where the neighboring property is public property.

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#### VACANT OR FORECLOSED PROPERTY

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Determining who owns or has common authority over a particular property poses a challenge when it comes to vacant or foreclosed property. Typically, the entity that engaged the renovator/firm to work on a property also is the owner of, or has common authority over, the property and, thereby, empowered to grant access. Alternatively, the inspector should identify the owner (or its agent) when checking property records at the local tax or real property office when preparing for the inspection, since such records usually include both vacant and occupied properties. See “Pre-inspection Activities,” above. The inspector should recognize that a foreclosed property may have several parties that have an interest in the property, but the ownership of the property ultimately lies with the holder of the deed.

Some cities, counties, and states require vacant and/or foreclosed properties to be registered. These registrations typically include the phone number and address of the owner or agent. In the case of vacant properties, oftentimes the owner must designate a local individual or local property management company to be responsible for the maintenance and security of the property. It may be helpful for the inspector to first contact the city to determine if the foreclosed property is registered.

If the foreclosed property is owned by a lender (usually a bank), the inspector should contact the lender, and speak with the bank-owned property department, in order to find a representative of the lender who has the authority to give the consent to enter.

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#### CONSENT AND THE RENOVATOR

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A renovator is not in a position to object to an inspection where consent has been given by the property owner or a third party with common authority, since the renovator does not have a reasonable expectation of privacy in property they have been hired to renovate. (Note that this is not the case where the renovator and the owner are the same person.) It is not essential to get the renovator’s signature on the Notice of Inspection in order to gain entry; however, it may be advisable in order to demonstrate that the renovator was presented the NOI and aware of the

inspection. If a renovator refuses to sign the NOI, the inspector should document the refusal in the inspection notes and inspection report.

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#### WHAT TO DO IF CONSENT FOR ENTRY TO INSPECT IS DENIED

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Consent to enter private property is considered denied where:

- There is no one on the premises authorized to give consent at the time of inspection, and no such person has granted consent in advance<sup>5</sup>.
- The person authorized to give consent explicitly refuses to allow entry.
- The person authorized to give consent refuses to sign the NOI and refuses to provide oral consent for entry.
- The person authorized to give consent initially allows entry but later withdraws consent.
- The person authorized to give consent places conditions upon entry that impede an inspector's ability to conduct a thorough inspection<sup>6</sup>.
- The person authorized to give consent places conditions upon entry that attempts to limit liability.

If the person authorized to give consent for entry asks what action EPA will take in response to his/her refusal, the inspector should reiterate that his/her visit is intended to observe the renovator's work practices and clarify that EPA generally takes no action to demand access to particular private properties for RRP inspections. The inspector may choose to explain that any potential violations now occurring on the property cannot be detected if we do not see them in progress. The inspector may also choose to explain that the Agency's mission is to protect human health and the environment, and that we conduct RRP inspections to ensure that the contractors/renovators are performing the work according to the regulations; using lead safe work practices.

Where consent for entry is still denied by the property owner (or other authorized person), the inspector should promptly and courteously leave the property and, thereafter, properly document the refusal. If there is a threat of bodily harm at any time during these discussions, then the inspector should exit the site as quickly as possible. Inspectors should exercise good judgment and avoid conflict. If resources permit, consider having inspectors work in pairs when seeking to conduct inspections within private dwelling units.

Where access to the property is denied or there is a reasonable belief that access will be denied, and the Region has determined that an on-site inspection (rather than other form of compliance monitoring) is necessary, then the inspector should consult with the Office of Regional Counsel to determine if seeking a warrant from a federal district court is appropriate, and to comply with any policies and procedures that the Region may have established for seeking

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<sup>5</sup> By contrast, an inspector may make presentation of the NOI when no one is present.

<sup>6</sup> Examples include photographic restrictions, some requirements for health and safety gear or training, or denial of access to certain areas of the premises.

warrants. Generally, to obtain a search warrant, the U.S. Attorney's Office for the district in which the property is located prepares the necessary documents with the assistance of the EPA inspector and attorney. If a warrant is issued by the court, then the inspector must execute the warrant without delay by entering the premises and conducting the inspection strictly in accordance with the warrant. Where there is probability that EPA will be refused entry even with a warrant, or there exists a likelihood of threats of violence, then the inspector must be accompanied by the appropriate law enforcement official such as a U. S. Marshal, county sheriff, or state or local police officer. If the property owner refuses entry to an inspector holding a warrant but not accompanied by a law enforcement officer, then the inspector must leave the property promptly and so inform the U. S. Attorney's Office and the designated EPA attorney who will take appropriate action.

A regulated entity, such as the renovator, has no role with respect to granting access (unless the entity also is the property owner), but may be aware that consent for entry has been denied. If the on-site *renovator* asks what action EPA may pursue in response to a denial, the inspector should explain in an objective, non-threatening manner that EPA may consider a variety of mechanisms for determining compliance and that those mechanisms may include a work-site inspection elsewhere, a documentary (record review) inspection, and/or a subpoena to obtain information. The inspector should complete the Notice of Inspection Form to the extent possible and indicate in the appropriate box that the form was presented to the renovator.

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#### HOW TO MONITOR COMPLIANCE WHERE CONSENT FOR ENTRY IS DENIED

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EPA has several options for monitoring compliance if an inspector is unable to obtain access to private property for a work site inspection:<sup>7</sup>

- It may be possible to view the renovator's work from property that is not privately owned, therefore, there would be no need to seek consent to enter (for example, observations made from the street, sidewalk or other public area).
- Conduct a documentary inspection of the renovation firm that is responsible for retaining records of its renovators' work. Such an inspection can be performed either at the firm's business location or through the region's issuance of an information request letter to the firm to seek voluntary submission of the required records.
- Inspect the renovator's work at an alternative work site where obtaining access may be less sensitive, such as in the common area of a multi-family dwelling, at a child-occupied facility, or at another private residence where access is granted.
- Consider issuing a subpoena to the renovation firm to obtain records. If the region determines that a subpoena is necessary, the region is expected to consult with its Office of Regional Counsel prior to issuing the subpoena. Also, because EPA may subsequently need assistance from the U.S. Department of Justice (DOJ) to obtain court enforcement

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<sup>7</sup> It is important to note that the renovator or renovation firm cannot deny entry once consent has been given by the owner, occupant or person exerting common authority.

of the subpoena, the region may consult with OECA and DOJ prior to the region issuing the subpoena.

- Consider seeking a court-issued search warrant to gain access to conduct inspections. While this approach is available, EPA encourages the use of a variety of measures, discussed above.

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### ALTERNATIVES TO ENTRY BASED ON CONSENT

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There are several theories that may be utilized to legally gain entry to (or observe work occurring on) private property that do not rely on consent. The inspector should consult his/her Office of Regional Counsel for guidance on a case-by-case basis, if necessary.

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#### OPEN FIELDS

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“Open fields” are areas where a property owner normally does not have a reasonable expectation of privacy (for example, open land). While the preferred procedure is to obtain valid consent prior to entry, the courts have established that inspectors may enter open, private lands in the official performance of their duties.

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#### PLAIN VIEW

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There is no reasonable expectation of privacy concerning things in “plain view.” The plain view doctrine is an acknowledgment by the courts that an inspector lawfully engaged in the course of his/her duties is not required to wear blinders or close his/her eyes to whatever is occurring around him/her. The following elements are required for a plain view observation:

- **Lawfully present**—The inspector must be justified in being where he/she is at the time the plain view observation is made. Lawful presence may be gained through such avenues as statutory authority, a valid search warrant, consent or “open fields.”
- **Inadvertent discovery**—The inspector must discover the evidentiary items accidentally. The plain view doctrine will not apply if the inspector has probable cause to believe that an item is on certain premises and goes on those premises with the intention of searching for that item; such a discovery is not inadvertent.
- **Apparently incriminating nature**—The inspector must have reasonable grounds to believe immediately, without further investigation, that the item in plain view constitutes evidence of a violation of the law.

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### SUPPORTING THE ELEMENTS OF PROOF

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The *main role* of the RRP inspector is to gather information and document observations in support of statutory and regulatory compliance monitoring and enforcement efforts. Each

element of the particular statutory or regulatory provision needs to be part of the inspection. When non-compliance is suspected, it is vital that the inspector gather evidence to establish each element of the suspected violation. This is referred to as “supporting the elements of proof.” Substantiation of the inspector’s observations consists of the information collected by the inspector and the recorded observations. It is, therefore, useful for the inspector to break down the particular regulation at issue during an inspection into its elements to ensure that nothing is overlooked. An inspection checklist can help with this, but the inspector needs a full understanding of the statute and the regulation in order to support the elements of proof.

For example, if, during a worksite inspection, an inspector observed that ducts were not properly covered, in violation of 40 CFR 745.85(a)(2)(i)(B), the elements of that violation would be each of the following:

- Ducts
- Opening in the work area
- Must be closed
- Must be covered
- With taped-down
- Plastic Sheeting or other impermeable material.

The inspector needs to document *each* of these six elements. In this example, it may be necessary to collect several pieces of information to document all the elements. A photo could be used to show the duct was not covered at all but a photo may not be enough to establish that the sheeting was not impermeable. Therefore, a full written description of the sheeting material, including observations about its permeability, would be necessary or a sample of the material taken.

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## DOCUMENTARY EVIDENCE

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Documentary evidence encompasses reports, records, and other written materials. The inspector’s field notebook is an example of documentary evidence. The field notebook is essentially the inspector’s statement of what they did, what they witnessed, and what they were told during the inspection. The field notebook is used to write the inspection report and document what was done during the inspection. In some instances, an inspector’s field notes are taken on an electronic device. Whether notes are taken in an actual field notebook or on an electronic device, the inspector’s notes are part of the enforcement file and should be maintained.

The inspector will need to determine the appropriate number and types of records to be examined. Guidance is provided in Exhibit 4, “Records to Review in Compliance Monitoring for the Renovation, Repair and Painting Rule”.

Documents may be maintained as hand written or printed records, but may also be stored as electronic records in accordance with the applicable QAFAP guidelines.

## DEMONSTRATIVE EVIDENCE

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Demonstrative evidence assists in illustrating or otherwise making some relevant facts clearer and easier to understand. Photographs, drawings, and maps are examples of demonstrative evidence. This evidence also should be properly labeled or marked for identification purposes as practicable, and properly maintained. See also “Obtaining Samples and Chain-of-Custody,” below.

## PHYSICAL EVIDENCE

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Physical evidence (e.g., samples) may be taken to document violations. Sampling requires a Quality Assurance Project Plan (QAPP), which must address representative sampling, proper equipment and procedures, sample volume, sample identification, special handling, and chemical analysis. In addition, chain-of-custody requirements must be followed. These include establishing custody, preparing sample documentation, coordinating the sample and documentation, and ensuring custody during transit. The QAPP must be prepared in accordance with EPA guidelines prior to the inspection. The inspector is urged to become familiar with all aspects of these sample development and documentation procedures required for physical samples. Inspectors are not required to be certified as sampling technicians. The QAPP however, should address standards for sampling technicians, as applicable.

## TESTIMONIAL EVIDENCE

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Testimonial evidence is a person’s observations, impressions and opinions. Testimonial evidence includes statements. Statements from witnesses or employees of the regulated entity allow the inspector to document things that have occurred that may not be recorded in documents. A statement made by a worker explaining how the regulated entity maintains its records, conducts worker training, or disposes of renovation waste are examples of testimonial evidence.

## OBTAINING SAMPLES AND THE CHAIN OF CUSTODY

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When collecting samples (including split samples), it is important for the inspector to follow the QAPP and use and issue the proper forms and adhere to sampling and chain-of-custody procedures. These topics are covered in Basic Inspector training which is required by EPA Order 3500.1 (see Chapter 1). By using the Receipt for Documents form the inspector will be able to ensure that all identifying information will be recorded. Chain-of-custody is established by keeping a record of the receipt of samples and identifying specifically who had custody and control over the sample from the moment it was received. Therefore, a Chain-of-Custody log is recommended to establish and maintain proper the custody and control of the samples.

It is important to the admissibility of records as evidence that enough information be documented to demonstrate the record’s authorship, location, distribution and relevance. The following strategies should be used to track and identify all evidence:

- **Develop a method for initialing/dating records.** By initialing and dating all records, the inspector will be able to verify their validity. Initials and the date should be in the same location on all documents (preferably on the back of the copy) and should be written at the time of collection. An inspector should be able to positively state that they wrote the identifying information. A digital photograph of the record may be useful in supporting the inspector's assertion.
- **Assign a unique identification number to each document using a standard coding system.**
- **Enter the identification number into the field notebook for each document obtained.** In addition to the identification number, the inspector should enter the:
  - Reason for copying the material or collecting the evidence;
  - Source of the record or evidence (i.e., type of file, individual who supplied record); and
  - Manner of collection (i.e., photocopy, duplicate copy, observation, witness statement, etc.).

The inspector may collect photos, videos, documents, or other items prepared or gathered by others. However, such items may have limited evidentiary value due to the inability to clearly establish the chain-of-custody prior to the inspector's acquisition. The inspector must make the origin of the collected item clear in the identification process.

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## CONDUCTING THE INSPECTION

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The inspector should provide the following to the appropriate persons:

- Notice of Inspection Form. If questions arise concerning access:
  - [TSCA/RRP Information Sheet on Access to Private Property](#)
- [Childproof Your Home Improvements](#)
- [Small Business Information Sheet](#)
- [Small Entity Compliance Guide to Renovate Right](#)
- EPA Form 7740-4 – TSCA Inspection Confidentiality Notice Form
- [TSCA/RRP Informational Sheet on CBI](#). If a CBI claim is being made:
  - EPA Form 7740-2 – Declaration of Confidential Business Information Form

As an inspection aid, the inspector may use inspection checklists to ensure that every regulatory element is included in the inspection.

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## INSPECTING RECORDS

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To determine the number and type of records to review during an RRP records review inspection, the inspector should review the guidance "Records to Review in Compliance Monitoring for the Renovation, Repair and Painting Rule" (Exhibit 4).

When inspecting records, inspectors should look for completeness, consistency between documents, and that the information contained in the record actually verifies compliance with the regulation. Inspectors should document any missing records as well as inconsistencies and contradictions in the documents.

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## ADVANCE NOTICE TO THE INSPECTION TARGET

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Generally, EPA conducts unannounced inspections. However, at times, it may be appropriate to provide advance notice. An advantage to providing advanced notice of the inspection is that it gives the firm, facility under inspection, or training program time to compile documents that compliance inspectors may need to review during the inspection. The compliance inspector and the regional office have the discretion to decide whether to provide advance notification. Where the inspection will be announced, inspectors should: (1) explain the nature and proposed extent of the inspection, (2) provide a timeframe for the scheduled activities, (3) document any contact with the regulated entity, (4) request the availability of personnel and the necessary records, (5) inquire about special safety or security requirements, and (6) inform the regulated entity about its right to assert a confidentiality claim, as applicable.

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## INSPECTIONS AT FIRMS THAT PERFORM RENOVATIONS

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An inspector may conduct compliance monitoring activities at the office of a firm that performs renovation work. A firm inspection consists mainly of a records review. For example, the inspector may investigate whether the firm is certified by EPA and, for jobs the firm performs that are subject to the RRP Rule; whether a certified renovator is assigned to each job; whether uncertified workers receive on-the-job training; whether work practices are followed; whether the pre-renovation education requirements are met; and whether required records are kept.

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## INSPECTIONS AT WORKSITES WHERE REGULATED ACTIVITIES ARE OCCURRING

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An inspector may conduct compliance monitoring activities at a work site where regulated activities are occurring. During a work site inspection, the inspector will gather information to determine whether the owner or occupant received the lead hazard information pamphlet; whether the job is being performed by a certified firm; whether the renovator and dust sampling technicians are properly certified; whether uncertified workers have received on-the-job training; and whether work practice requirements are followed.

Compliance monitoring begins before the inspector approaches the work site by noting useful information such as the renovator(s) name on a company vehicle, the condition of the property, (age, the contiguous neighborhood housing, etc.), proximity to playgrounds, schools, and any other observations that can assist with the inspection. It is particularly important for inspectors to determine if there are any occupants that are pregnant women or under the age of 18.

## TRAINING PROVIDER INSPECTIONS

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An inspector may conduct compliance monitoring activities at an accredited training provider location or conduct a pre-accreditation training provider audit. During an inspection at a presumed accredited training provider, the inspector will gather information as to whether the training provider is accredited by EPA; whether the training provider employs qualified personnel; whether training facilities are adequate; whether minimum curriculum requirements are met (especially the “hands-on” portion of the training); whether the training provider notifies EPA of training activities; and whether required records are properly kept. Additionally, the inspector will review course records and audit courses to determine when, where, and how those courses will be or have been conducted; the qualifications of the training manager and principal instructors; the course test blueprint; information regarding the hands-on assessment; the course quality control plan; and records concerning conduct and results of various student tests. EPA audits classes to ensure that all courses meet regulatory requirements.

## PRE-ACCREDITATION TRAINING PROVIDER AUDITS

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Prior to EPA approving an application for accreditation as a training provider under 40 CFR 745.225, inspectors may be asked to conduct a pre-accreditation training provider audit.

A pre-accreditation training provider audit may be conducted by:

- A site visit. The site visit includes a review of all pertinent records as well as a hands-on demonstration sufficient to demonstrate that the training provider is knowledgeable and capable of delivering the training.
- An electronic review with post-accreditation on-site visit. This option includes:
  - Reviewing the training providers proposed activities using a virtual tool (e.g., Skype or another internet video service) and/or having the training provider send a video of the training and photos of the facilities and equipment, so that EPA can make reasonable conclusions regarding the adequacy of the facilities, course(s), and instructor proficiency, and other aspects of the accreditation requirements.
  - Conducting an on-site post-accreditation visit(s) within 6 months of the trainer’s accreditation.
  - If there are 5 or more locations requiring a site visit, the post-accreditation site visits should be completed within approximately 9 months of the trainer’s accreditation.

## EXIT MEETING

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After the inspector has finished the inspection, communicate preliminary observations during an exit meeting and answer any remaining questions. Do not make compliance determinations.

## POST-INSPECTION ACTIVITIES

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The inspector should conduct follow-up activities if necessary. Follow-up activities include obtaining answers to questions that were not addressed during the inspection or obtaining outstanding relevant documents. It may be necessary for the inspector to collect information that clarifies data already obtained. It is recommended that follow-up activities be documented by, for example, sending a letter or email requesting that the outstanding information be submitted. It is advisable to set a specific time frame for the regulated entity's response so that inspection activities can be concluded in a timely manner. Ten working or business days is appropriate in most cases. A follow-up visit may be required in some circumstances. Before preparing the inspection report, the inspector should compile and review *all* of the documentation from the inspection.

## THE INSPECTION REPORT

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The inspector should prepare the inspection report as soon as possible after the inspection. This should allow the inspector adequate time for conducting follow-up activities and adjusting the inspection report to include data obtained during the inspection follow-up as well as any sample analysis.

While inspection reports may vary in general content and format, the basic elements listed in Exhibit 3 should be contained in each inspection report to ensure that necessary information is not inadvertently overlooked.

The compliance inspector may find that the field notebook, pictures, videos and/or an inspection checklist are useful for developing the narrative portion of the inspection report. Both help the inspector recall important details concerning the inspection, so that they may be included in the report. The report should also include the reason for the inspection, relevant historical information, and any knowledge of prior violations obtained during the pre-inspection process. The inspector should keep in mind that the report should contain enough information about the regulated entity, inspection location facility or work site and the inspection to enable adequate enforcement decision-making.

The inspection report should be sent to the Case Development Officer (CDO) or the lead program attorney once it is completed by the inspector and reviewed by his or her supervisor. Note: In some regions, the inspectors work directly with the attorneys to perform those activities usually performed by CDOs. These documents should be maintained by the inspector in a secure location or transmitted to a central storage location in the region.

# Exhibits

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**EXHIBIT 1 - TYPES OF EQUIPMENT THAT MAY BE NEEDED IN THE COMPLIANCE INSPECTION**

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(Please note that not all the equipment cited needs to be brought to each inspection).

**General**

- Credentials
- Field Notebook
- Forms (7740-1,2,3,4)
- Digital Camera with fresh batteries
- Pocket Calculator
- Tape Measure
- Clipboard
- Waterproof pens, pencils, and markers
- Locking Briefcase
- “Confidential Business Information” stamp
- Stamp pad
- Pre-addressed (EPA address) and stamped envelopes (e.g., to Document Control Officer)
- Plastic Covers
- Plain envelopes
- Polyethylene bags
- Disposable towels or rags
- Mobile Devices (for example, laptop computer, tablet, etc.)
- Portable copying machine
- Scanner
- Copy Paper
- Flashlight/ batteries

**Safety**

In accordance with EPA policy, a TSCA inspector may not do field work without first completing an approved health and safety training program. EPA inspectors must complete a course that meets the requirements of OSHA's Hazardous Waste Operations and Emergency Response ("HAZWOPER") regulations (29 C.F.R. 1910.120). Such a course should address personal protective equipment, including the use of respirators and personal protective equipment selection. Program-specific safety training has been developed for field personnel facing particular risks.

- Safety glasses or goggles
- Face shield
- Ear plugs
- Rubber-soled, metal-toed, non-skid, steel shank shoes
- Liquid-proof gloves (disposable, if possible)
- Coveralls, long-sleeved

- Hard hat
- Plastic shoe-covers, disposable
- Respirators and cartridges
- Duct tape
- Water bottle
- Clean wipes

### Emergency

- Substance-specific first aid information
- Emergency telephone numbers
- First-aid kit with eyewash
- Fire extinguisher
- Soap, waterless hand cleaner, and towels
- Supply of clean water for washing/drinking
- Cellular telephone (EPA's [Record Management Policy CIO 2155.3](#) can be interpreted to discourage the use of personal cell phones except in cases of emergency)

### Sampling

- Sample bottles/containers (certified clean bottles with Teflon-lined lids)
- Labeling tags and tape
- Ice chest
- Container for contaminated material
- Hazard labels for shipping samples
- Field document records
- Department of Transportation (DOT) special 12B cartons
- Packing material
- Chain of custody forms
- Permanent markers

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**EXHIBIT 2 – INSPECTOR SCRIPT**

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This script provides a model for RRP inspections. This script will be useful to new inspectors but may also provide guidance to seasoned inspectors due to the unique nature of RRP inspections.

**EPA Inspector:** *Hi, my name is \_\_\_\_ and I'm an inspector from the U.S. Environmental Protection Agency. Here are my credentials.*

*<Present credentials>*

**Homeowner, operator, or agent in charge:** *Hi, how can I help you?*

**EPA Inspector:** *I'm here to conduct a lead-based paint inspection under the TSCA Renovation, Repair, and Painting Rule. I will be monitoring the renovator's compliance with that health and safety rule. Here is some information explaining why I am here and what I am looking for.*

*<Give Childproof Your Home Improvements to homeowner, operator, or agent in charge, which he/she may keep>*

*<Allow the homeowner, operator, or agent in charge enough time to read Childproof Your Home Improvements>*

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If there is any question as to whether the person answering the door has the authority to grant access, please refer to the information in Chapter 3. In general, you must get consent from an owner or someone with “common authority.” This may include tenants, a building manager, adult members who live in the home, and possibly a general contractor or the renovator. This should be judged based on the totality of the circumstances.

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**EPA Inspector:** *I'm here to inspect the renovator's work practices, not you or your home (or whatever the target housing or child occupied facility is under inspection). With your permission, I would like to take a look at the work in progress. I can assure you that the inspection will be done as quickly as possible and I will make every effort not to disrupt your family's regular activities.*

*I need you to sign this consent form so that I can enter your home (or facility) and inspect the work in progress.*

*<Hand the homeowner, operator or agent in charge the Notice of Inspection and Consent for Access form to be signed and returned to the inspector>*

At this point, if the owner, operator, or agent in charge signs the consent form and returns it to the inspector, the inspector is free to enter the premises to review the renovation in progress. Alternatively, if the owner, operator, or agent in charge refuses to sign the form and also does not provide verbal consent, the inspector has been denied entry to the premises and must retreat from

the private property. The inspector may attempt to inspect the renovation from a public place like a sidewalk (plain view doctrine).

Assuming that the owner, operator or agent in charge signs the consent form and allows the inspector to enter the premises, the inspector should approach the renovator, present credentials and the RRP Notice of Inspection and Consent for Access form. Whether or not the renovator signs the NOI, the inspector may stay in the home and conduct an inspection of the work practices and the renovation area until consent is withdrawn by the owner, operator, or agent in charge.

Remember, TSCA requires that all inspections “be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner.”

EXHIBIT 3 – INSPECTION REPORT TEMPLATE

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Report on Renovation, Repair and Painting Rule Inspection to Determine Compliance with  
TSCA and 40 CFR 745

Renovator Name  
Street Address  
[Mailing Address if different]  
City, State Zip Code

Property Owner Name  
Street Address  
[Mailing Address if different]  
City, State Zip Code  
*[if applicable]*

Inspected on Month Day, Year

Performed by:  
U.S. Environmental Protection Agency  
Branch  
Address  
City, State Zip Code  
TSCA Inspection Report  
[Inspection No. 01TSCA \_\_\_\_]

**I. Renovator/Company Information**

- A. Company Name
- B. Responsible Official
- C. EPA Certification Number

**II. Property Owner/Operator Information (if applicable)**

- A. Name
- B. Type of Ownership

**III. Date of Inspection****IV. Participants**

- A. Renovator
- B. Property Owner/Operator (if applicable)
- C. U.S. EPA/State

**V. Objectives**

To inspect/investigate ... Renovation, Repair and Painting Rule (40 CFR 745) promulgated under the Toxic Substances Control Act.

**VI. Renovator/Company Background****VII. Property Being Renovated Background (if applicable)****VIII. Inspection Summary**

- A. Opening Conference
  - Describe — Whom did you show your credentials to? Include all persons present, titles or positions, what was discussed (i.e., scope and timing of the inspection events), specific arrangements, if entry was granted or denied, special conditions, problems, or restrictions.
- B. Inspection Observations and Sample Collection
  - Describe — The “field inspection” events and observations. Where did you go? What did you see? What did you do? What was reviewed, copied and taken? Where were the records kept and who was in charge of them? What selection method was used? Were samples taken? Of what? Were there splits?
- C. Closing Conference
  - Describe — Who was there? What was discussed? What was agreed to?

- D. Post-Inspection Activities
- Describe – Information Request Letters (IRL) sent, compliance assistance, additional communication, firm acquiring certification expeditiously, etc. with the renovation firm.

**IX. Attachments**

- A. TSCA Inspection Confidentiality Notice
- B. Declaration of Confidential Business Information
- C. Notice of Inspection and Consent for Access
- D. Lead Paint Notice of Inspection
- E. Receipt for Documents
- F. EPA Chain of Custody
- G. Statements
- H. Photographs and Photo Log
- I. Diagrams

(Inspector's Signature)

(Date)

(Inspector's Name)

(Title)

EPA region or state affiliation

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**EXHIBIT 4 – GUIDANCE ON RECORD REVIEWS**

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**Records to Review  
in Compliance Monitoring for the  
Renovation, Repair and Painting Rule****I. PURPOSE OF THIS GUIDANCE**

This guidance is intended for EPA inspectors, as a supplement to OECA’s Inspection Manual for the Renovation, Repair and Painting Rule (RRP Rule), to use in determining the number and type of records (or files)<sup>1</sup> an inspector should collect and review during record review compliance monitoring<sup>2</sup> for the RRP Rule. This guidance applies to compliance monitoring of any RRP-regulated entity, including a renovator, training provider or dust sampling technician (herein, Firm); and to both on-site inspections and the use of information request letters (IRLs).

This guidance discusses the *number* of records pertaining to *RRP-regulated activities* (RRP records<sup>3</sup>) that an inspector should review to ascertain the existence and extent of potential noncompliance (Section III). Also, this guidance discusses the particular *type* of records and information an inspector should look for in various compliance monitoring scenarios (Section IV). Furthermore, this guidance recommends a process for sampling and record review and pre-screening non-RRP records (Section V).

**II. BACKGROUND**

Record review compliance inspections are visits to a location for the purpose of gathering recorded information (documents, photographs, etc.) to determine compliance. The issue for RRP record review inspections is how many, and what type of records an inspector should collect and review to enable EPA to make appropriate post-inspection compliance status determinations and enforcement decisions.

For the Section 1018 program,<sup>4</sup> OECA established a flat 10% sample guideline, i.e., reviewing 10% of available Section 1018 records constitutes a formal inspection.

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<sup>1</sup> A “record” is any set of documents that pertain to a particular renovation. A record may include multiple documents concerning a particular renovation (e.g., the compliance checklist, contract and invoice) and, thus, is sometimes called a “file.”

<sup>2</sup> EPA inspectors include Senior Environmental Employees. This guidance is intended for inspectors and does not apply to case development and enforcement functions.

<sup>3</sup> That is, only records that concern renovations, training and other regulated activities for pre-1978 “target housing” and “child-occupied facilities.” Section IV discusses collecting and pre-screening non-RRP records.

<sup>4</sup> See 40 C.F.R. Part 745, Subpart F.

For RRP compliance monitoring, however, a flat 10% sampling guideline may not be an appropriate model in all cases. Therefore, **this guidance establishes a “flexible” 10% guideline** under which the appropriate *sampling percentage* - and, thus, number of records to be reviewed - varies depending upon the particular compliance monitoring situation. See Section III.

### **III. NUMBER OF RECORDS TO REVIEW**

An inspector should review the *minimum number* of records necessary to ascertain with reasonable certainty whether noncompliance may have occurred<sup>5</sup> - but also a *sufficient number* to ascertain the nature and extent of any such noncompliance. An inspector should review an *initial* sample, usually 10%, of RRP records and, as appropriate review *additional* records to obtain the information required for accurate compliance determinations and effective enforcement. See Section V.B regarding the sampling and review process.

#### **A. Minimum Number of Records**

For each round of sampling and record review, an inspector should use a **“flexible” 10% sampling protocol** to determine the *minimum* number of records to review, i.e.:

- **Review at least five (5) RRP records** in virtually every case.<sup>6</sup> Generally, reviewing 5 records is the minimum number necessary for a reliable compliance status determination.<sup>7</sup>
- **Review 10%** of the available RRP records in most cases.<sup>8</sup>
- **Review an appropriate sampling less than 10%** of the available RRP records where the total number of records is very large (e.g., hundreds) and sampling 10% would generate so many records that collecting and reviewing the sample would be excessive, impractical or redundant for purposes of determining compliance.

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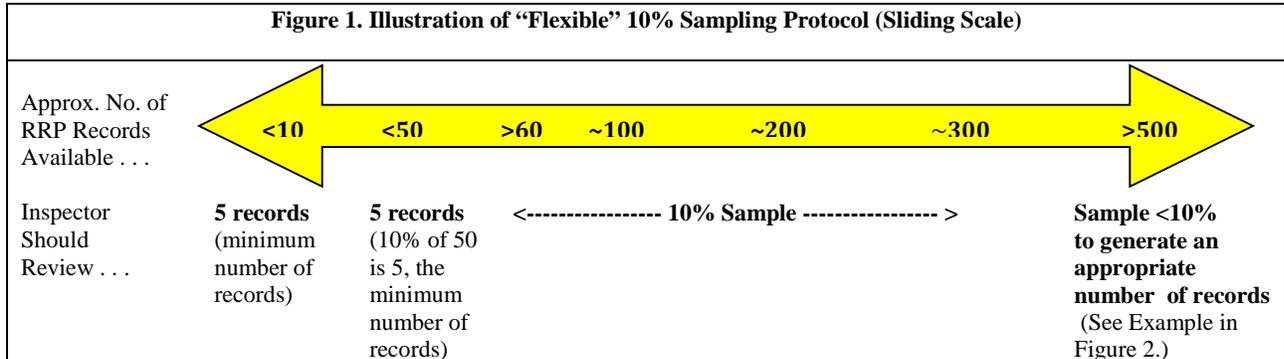
<sup>5</sup> The *smallest* reliable sample avoids expending more monitoring resources than necessary for an accurate compliance status determination.

<sup>6</sup> If fewer than five records are available, then this guidance cannot be applied. The Region should try other methods to monitor compliance, such as partnering with local authorities to target work-site inspections. See the *TSCA Compliance Monitoring Strategy* for general information about integrated strategies for the lead-based paint program.

<sup>7</sup> Although a Firm is in noncompliance if a single violation is confirmed in a single record, generally it is preferable to locate evidence of noncompliance in more than one record. See Section V.B regarding potentially anomalous results.

<sup>8</sup> When applying a sampling percentage results in a fraction of a record, the inspector should *round up* to the next whole number (e.g., 10% of 87 records equals 8.7 records - rounded up to 9 records).

Figure 1 summarizes how an inspector should use a “sliding scale” so that the flexible 10% sampling percentage *decreases* as the total number of RRP records available for review *increases*. Figure 2 provides fact-specific examples.



Note that the sampling percentage is calculated in relation to the *total number of available RRP records*, i.e., *not* counting records concerning non-regulated work. See Section V.A. regarding pre-screening non-RRP records.

**B. Sufficient Number of Records**

An inspector must review *enough* records so that the Region can accurately determine the nature and extent of any noncompliance, and have adequate proof for potential enforcement. Whereas determining the *minimum* number of records to review is a *quantitative* judgment based largely on the size of the sampling pool (although other factors might apply<sup>9</sup>), determining a *sufficient* number (and type) of records is a *qualitative* judgment based on the facts in a particular compliance monitoring event.

This guidance encourages an inspector to review additional records, as appropriate to the circumstances of each case. See Section V.B. Also, since enforcement cases vary widely, inspectors are encouraged to consult their regional case development officers and/or Offices of Regional Counsel regarding the appropriate number (and type) of records to review in unique situations.<sup>10</sup>

<sup>9</sup> See Section V.B regarding enlarging the initial sampling pool.

<sup>10</sup> This guidance does not opine upon whether the Region should or should not pursue an action on every record, or on every potential violation. Without regard to the number of records the Region may collect, the Region is expected to exercise appropriate judgment given the circumstances in each case (and in accordance with other applicable guidance) when formulating its enforcement case and calculating the proposed penalty.

**Figure 2. Minimum Number of Records to Review  
Using the “Flexible” 10% Sampling Percentage in Various Scenarios**

<u>No. of RRP Records Available</u>	<u>Number of Records to Review in Each Round of Sampling and Record Review (and why)</u>
A Firm has <b>5 to 10</b> records.	⇒ <b>Review 5 records.</b> Five is the minimum number of records to review and a 10% sampling only generates 1 record.
A Firm has <b>11 to 50</b> records concerning various types of renovations on various types of properties.	⇒ <b>Review 5 records.</b> Five is the minimum number of records to review and a 10% sampling only generates from 3 to 5 records.
A Firm has from <i>approximately</i> <b>51 to 500</b> records concerning various types of renovations on various types of properties.	⇒ <b>Apply the 10% sampling guideline.</b>
A property management firm has <b>500 or more</b> RRP records available. The firm renovates units for its client building owners and has done work in a large apartment complex comprised of ten buildings, each of which contains 50 units for a total of 500 units. The buildings are <u>adjacent, virtually identical, owned by the same client and managed (and renovated) under the same contract.</u>	⇒ <b>Sample less than 10% of the available records to generate an appropriate number of records.</b> The 10% guideline would generate 50 records (5 per building), but reviewing that many could be redundant for a compliance status determination since the firm likely follows the same practices on properties that are identical, adjacent and under the same contract. An alternative approach would be to review two or three records for each building (i.e., a 4% to 6% sample), which would generate 20 to 30 records in total.  <b>However</b> , if the firm’s properties vary (e.g., in type, age, location, ownership) – or if the firm conducts widely different types of renovations in the buildings (e.g., minor painting <i>and</i> major redesign and construction) - then the inspector probably needs a broader picture of the firm’s work and should sample <i>more</i> than 4-6% of the records, being mindful to ensure that the selected records represent the expansive scope of the firms renovation activities.

#### IV. TYPES OF RECORDS

An inspector's sampling for the initial round (and any subsequent rounds) of record review should include records that reveal the full range of the particular Firm's work and any potential violations.<sup>11</sup>

To determine what types of records and information to look for, the inspector should consider: (1) any pre-inspection knowledge the Region may have from tips and complaints, the Region's targeting research and other sources; and (2) the results of any prior rounds of record review.

The following are illustrations of the type of information an inspector may consider to discern potential patterns or areas of noncompliance:

- If information indicates that the Firm has committed a *particular type of violation*, then an inspector should sample and review records that are likely to reveal, and show the extent of, that type of violation. For example, if an inspector finds that for a particular renovation a renovator had no records to confirm that the renovator provided pre-renovation notification, then the inspector should look for this particular violation (as well as others) in the records for other renovations.
- If a Firm performs a *variety of jobs* (e.g., painting, plumbing, and window replacement), then an inspector should sample and review records for each type of job.
- If a Firm works in a *variety of communities* or *on a variety of properties* (e.g., in Environmental Justice (EJ) and non-EJ areas; single family homes and apartments; very old and later-constructed properties), then an inspector should sample and review records pertaining to the various situations.
- If there appears to be a pattern of *noncompliance in particular situations*, then an inspector should sample and review records that focus on those situations. For instance, a Firm's compliance may vary for:
  - certain *types of work* (e.g., plumbing repairs versus window replacement or construction);
  - certain *types of properties* (e.g., work on apartments versus work on single family homes);
  - work in *different communities* (e.g., in EJ versus non-EJ communities); or
  - work in different *competitive markets* (e.g., in locales with little competition versus locales in which market forces may influence a Firm to underbid competitors and then non-comply to save costs).
- If a Firm's level of compliance *differs over time*, then the inspector should sample and review records that focus on the relevant time periods. For instance, a Firm's compliance may:
  - have lessened over time (e.g., in response to changed market conditions); or

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<sup>11</sup> Generally an inspector will need to review the Firm's compliance checklist for each job. An inspector also may need to look at other relevant documents, such as contracts and invoices.

- vary during certain seasons or times (e.g., when demand for renovations is high, such as after a catastrophe or during the busy season, a Firm may try to move quickly from one job to the next and, therefore, non-comply to save time on each project).
- If a Firm performs work independently *and* as a subcontractor for others, then an inspector should sample and review records for both situations. For instance, a Firm may be fully compliant when it works as a subcontractor for a major national home improvement retailer, but may not adhere to RRP requirements when it conducts renovations on its own.
- If a Firm has experienced a change in ownership, management or of critical personnel, then an inspector should sample and review records that pertain to work performed before *and* after the change to ascertain whether the change may have affected the level of compliance.

Each sampling also should include records that cover an appropriate “look-back” period, and records for work performed in priority areas *if known*, such as work in EJ communities or on properties with lead-poisoned children.

## V. OTHER COMPLIANCE MONITORING CONSIDERATIONS

### A. Pre-Screening Non-RRP Records

A Firm may engage in both RRP-regulated and non-regulated renovations (e.g., for both pre-and post-1978 properties); and may co-mingle its records for both types of activity. An inspector – or a Firm responding to an Information Request Letter (IRL) - may need to collect and pre-screen co-mingled files to eliminate non-RRP records and, thus, define the universe of RRP records from which to select its sample. Some situations present the challenge of limiting a very large collection of co-mingled documents to only RRP records, such as where a property management firm performs a wide array of maintenance projects but only some are subject to the rule. In these cases, the Region may elect to use IRLs or subpoenas, in which case the Firm is obligated to provide only relevant records. Conversely, the Region may obtain a universe that is too small for reliable sampling, such as when the Region conducts a combined Section 1018/RRP inspection and seeks records only for those dwelling units with both Section 1018 and RRP involvement. In either event, the Region is expected to use appropriate judgment in defining the query the Region will use to derive the universe of RRP records from which to collect its sample.

An inspector should not hesitate to seek access to RRP records that a Firm claims are co-mingled with non-RRP records, or to files that a Firm purports to contain only non-RRP records. EPA routinely monitors entities that the Agency believes, but needs to confirm, are subject to regulation. (In other words, EPA has authority to seek records to determine whether an entity is subject to the RRP Rule.) For the RRP Rule, a Region may reasonably conclude that a Firm performs regulated work based on a tip or complaint, the Region’s own targeting research or

observations, the Firm's offers and advertisements<sup>12</sup> and other sources. Therefore, it is appropriate to seek records necessary to confirm whether a Firm is in compliance with the RRP Rule.

When the inspector is not given direct access to the Firm's files (e.g., IRLs), an inspector must rely upon the Firm to screen-out non-RRP records. A potential risk of such reliance is that a Firm may provide a "null" response in which the Firm claims to have never performed RRP-regulated work. The Region should attempt to avoid, and should contest, unsubstantiated null responses. One approach is for the Region to request a random assortment of records and circumscribe the Firm's discretion in selecting responsive records. For instance, an inspector may request records for any renovations performed in certain neighborhoods which the Region has already confirmed to be comprised largely of pre-1978 properties.<sup>13</sup> Also, the inspector may request records concerning work done during certain seasons, days or dates. Upon obtaining the records, the inspector can screen-out those that are not pertinent to the RRP record review.

## **B. Recommended Sequence for Sampling and Record Review**

This guidance recommends that an inspection begin with an initial round of record reviews based on a limited sampling (usually 10%). Limiting the initial enquiry saves time and monitoring resources because the initial sampling alone might be sufficient; and will help an inspector focus his/her further enquiries if additional record review is necessary. The Region may conduct additional sampling and review by an IRL and/or subpoena. Under certain circumstances, an inspector may make the *initial sampling greater than 10%*, rather than perform additional sampling and review.<sup>14</sup>

Generally, an inspector should conduct additional sampling and record review if the initial alone sampling is *insufficient* or *unclear* for purposes of an accurate and complete compliance determination and effective enforcement. An initial review might be *insufficient* if it indicates that violations have occurred, but additional records are needed to ascertain the full scope and nature of those violations. Section IV provides examples of this type of scenario. Also, an initial round of sampling may be insufficient if the Region finds, after the inspection, that too few of the records it collected are RRP records (e.g., too few records pertain to pre-1978 housing).

Also, an initial review may be *unclear* if it fails to provide a definitive picture of compliance. In general, an RRP record review provides a definitive picture of a Firm's compliance status if the

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<sup>12</sup> For instance, if a Firm advertises widely but does *not* state explicitly that it does *not* work on pre-1978 property, then a Region may reasonably conclude that the Firm probably performs RRP-regulated work.

<sup>13</sup> As a routine targeting and pre-inspection activity, the Region should identify communities that are comprised largely of pre-1978 properties. This advance knowledge enables an inspector to more easily identify RRP records (versus non-RRP records) and refute "null" responses.

<sup>14</sup> For example, an inspector may need to quickly obtain all of the potential evidence of violations that the Region believes (e.g., based on a tip/complaint) are egregious or may present an imminent and substantial risk of harm to human health or the environment.

inspector finds that 10% of the RRP records *available for review* show noncompliance (i.e., 10% of the *total number* of records available, distinguished from the 10% sample reviewed). Figure 3, below, provides an example of when this principle might apply.

Note that there is *no* requirement that an inspector find any minimum number of violations. A Firm is in noncompliance – and can be subject to enforcement - if monitoring results in finding a single violation in a single record for a single renovation. Finding multiple violations or violations in multiple records, however, provides greater certainty for the formal compliance status determination and strengthens the proof needed for any potential enforcement action.

**Figure 3. “10% Noncompliance” Principle**

**Illustration**

A Firm has 25 RRP records available for review. The inspector reviews 5 records, the minimum number of records for review for most cases (see Section III.A). The first four records show compliance; the fifth shows noncompliance.

It would be prudent for the inspector to review additional records to (a) confirm that the fifth record is not an anomaly, and (b) accurately ascertain the extent of the Firm’s potential noncompliance.

Applying the “10% noncompliance” principle, the inspector should review additional records to determine whether there is apparent noncompliance in at least 3 of the 25 available records (i.e., 10% of the 25 available RRP records equals 2.5 records, which the inspector rounds up to 3 records) .

The inspector should continue sampling and record review until the inspector is confident that he/she has:

- Obtained a representative picture of the Firm’s work;
- Fully explored any potential noncompliance; and
- Obtained enough evidence for effective enforcement.